



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,879	06/26/2001	John J. Halloran	301502.1000-000	9058

30407 7590 04/30/2004
BOWDITCH & DEWEY, LLP
161 WORCESTER ROAD
P.O. BOX 9320
FRAMINGHAM, MA 01701-9320

EXAMINER

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/891,879

Applicant(s)

HALLORAN, JOHN J.

Examiner

Robert J Canfield

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-11 is/are allowed.
- 6) ☒ Claim(s) 1,4-6,12,15-17 and 20 is/are rejected.
- 7) ☒ Claim(s) 2,3,7,13,14,18,19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. This Office action is in response to the amendment filed 02/06/04. Claims 1-20 remain pending.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 12, 15, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,351,415 to Kita.

Kita provides a building in the form of an elevator structure 11, which inherently has a support structure. Kita teaches delivering a fluid to a hydraulic support chamber 14 to elevate the building relative to a foundation and lowering the building 11 and controlling delivery of the fluid from support chamber 14 to an electrical controller 20 (see figure 2 and its description) which distributes power generated from turbine 17.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4-6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,351,415 to Kita.

Kita provides a building in the form of an elevator structure 11, which inherently has a support structure. Kita teaches delivering a fluid to a hydraulic support chamber 14 to elevate the building relative to a foundation and lowering the building 11 and controlling delivery of the fluid from support chamber 14 to an electrical controller 20 (see figure 2 and its description) which distributes power generated from turbine 17. The description of figure 2 discusses reservoir 19, valve 16 and hydraulic pumps. Kita provides connecting link 13 and conduit 15.

Kita fails to provide that the building support structure includes columns and walls. The examiner takes Official Notice that it was well known at the time of the invention to form the structure of an elevator from columns and walls. It would have been obvious at the time of the invention to one having ordinary skill in the art to have formed the structure 11 of Kita from a known construction system to take advantage of known techniques.

As to claim 5, Kita also fails to provide a limited lateral restraint system. The examiner takes Official Notice that it was well known at the time of the invention to provide a limited lateral displacement system coupled to an elevator to allow elevation changes of the elevator structure while maintaining vertical orientation. It would have been obvious at the time of the invention to one having ordinary skill in the art to have provided the structure 11 of Kita with a limited

lateral displacement system coupled to an elevator to allow elevation changes of the elevator structure while maintaining vertical orientation.

6. Applicant's arguments filed 02/06/04 have been fully considered but they are not persuasive.

Applicant argues that Kita fails to teach or suggest the use of a building including the weight of its frame and walls for the generation of power. This is not found persuasive. As noted in the above rejections the structure 11 of Kita meets the limitation of a building structure. Further, the examiner has taken Official Notice that is well known to form such structures from columns and walls. The summary of the invention of Kita clearly describes that power is generated as the elevator descends and forces discharge of the fluid from the chamber 14 to a generator.

7. Upon further consideration there is no provisional obvious-type double patenting with co-pending application serial number 10/183061.

8. Claims 2, 3, 7, 13, 14, 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 8-11 are allowed.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

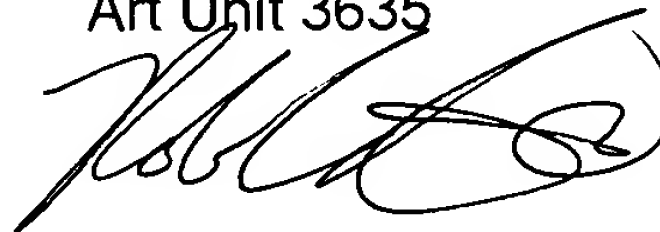
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J Canfield whose telephone number is 703-308-2482. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
Art Unit 3635



04/27/04